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THE SAN JUAN QUESTION.

SINCE the organization of the Federal Government, the settlement of boundary lines between this country and Great Britain, *i. e.*, the determining the exact limits that separate the possessions of that power on the North American continent from those of the United States, has been a matter of difficult adjustment, and has sometimes threatened to disturb the friendly relations existing between the two countries. Fortunately, these delicate and agitating questions, as often as they have arisen, though their adjudication has been held, for a while, in abeyance, in order to give time for a fair and thorough investigation of contending claims, have at length been settled in a satisfactory manner, and so as to subserve the substantial ends of right and justice between the parties, mainly through the instrumentality of diplomacy. Sometimes, before this result has been attained, we have been on the very verge of war with the mother country; but the discussions in Congress, and those which have taken place through the medium of the newspaper press and the quarterly journals, while they have evinced the sensitiveness of our citizens on this subject to their rights, and their determination to maintain them, have also demonstrated their profound respect for the force of treaty stipulations, and been qualified by a calm, enlightened, and deliberate consideration of all the matters in dispute.

In periods of temporary exasperation, arising from real or supposed aggression on our domain, we have never forgotten the original relations we sustained to the mother country on the grounds of common lineage, common language, common laws, and common literature, the great importance to our agricultural and commercial interests of placing the principles of a mutual good understanding on immovable grounds, and the equal necessity of maintaining the dignity and justice of our own character as a free and civilized people, possessing a superior government and larger privileges than have fallen to the lot of most of the nations of the earth. For a time, and so long as the wounds inflicted by the war of the Revolution, by which we achieved our independence, were fresh and painful, we were inclined to cherish towards the mother country feelings of bitterness and alienation, on account of the grievous wrongs we had sustained at her hands, and to turn with affection and gratitude to France, who, with a generous spirit, came to aid

us in our extremity, and help us to fight our battles. But time, renewed intercourse, and the necessities and advantages of commerce, have healed those wounds. It is true they were opened afresh in our second war with Great Britain; but, in both these wars, it was at length clearly seen that the spirit of independence was a vital element in the American breast,—that if we could receive blows, we could return them, and that neither encroachment on our just rights, nor a contemptuous disregard of our position as mere adventurers, and the propagandists of a new experiment in government, could subserve the purposes of a great and powerful nation; that if Great Britain had pride, experience, reputation, and an almost boundless domain, the United States had popular liberty, youth, vigor, manliness, and an inheritance in the solid continent, to which she had vindicated her title by the force of arms, of far wider extent than her own; that the same dogged obstinacy, if it should not rather be called the same invincible courage, that distinguished the Englishman in maintaining his rights of property, had descended from the sires, in the old country, to their sons in the new; in a word, that a removal to a new country, possessing a thousand additional stimuli to exertion, had not changed the original genius of the Anglo-Saxon race, but that it still exhibited, in that country, the same characteristics of love of law, order, and truth, and the same firmness and indomitable resolution. That our national character has been essentially modified by circumstances and our peculiar institutions, in which the elements of popular liberty and popular power prevail, cannot be disputed. Hence, while the policy of England, as a great leading power, is to open, in every available point on the globe, markets for manufacturing establishments, which, through her steam machinery, exercise a power equal to the aggregate manual power of the human race, the destiny and end of our government is the expansion of territory on the North American continent, with a view to bring to the masses of our citizens and to the floating population of the world, the blessings of our beautiful confederated system. In the attainment of these diverse objects—on the part of England, the increase and permanence of her physical power and importance, on the part of the United States, the extension and maintenance of political rights and privileges—the same regard to property, to what is mine and what is thine, and the same respect to the immutable principles of justice in deciding the question, are now regarded indispensable by both nations. It

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is well understood by the mother country, that the Americans, like themselves, are an intelligent and exacting people, and that, come what may, they are determined, at all times and at all events, to have their rights, their whole rights, and nothing but their rights—to secure them peaceably, if they can, forcibly, if they must; and, when secured, to maintain them, if necessary, against England and against the world. This attachment to right and to political and territorial rights, is inextinguishable in the breast of every American citizen who properly understands his own position. It is a fact not to be disputed in our country's history, that, prior to and from the declaration of independence to the present hour, the reflected intelligence of our people has directed and controlled throughout the proper organization of our public policy. Can the same be said of any other nation on the face of the globe? We think not.

It may be proper, in connexion with the subject before us, to inquire how territory may be acquired. Writers on the laws of nations describe four methods, viz: 1st, by treaty; 2d, by conquest; 3d, by discovery; and 4th, by contiguity. The ground usually relied on, and which, together with the right by treaty, has more particular application to the case before us, is the right acquired by discovery. This, however, is an inchoate right, which only becomes perfected by subsequent occupation, and to entitle a party or a nation, claiming under this right, it is necessary that the discovery should not be casual nor accidental, but that explorations should be undertaken under the authority of the government which the explorer represents, with a special view to occupancy, and that not a temporary but a permanent occupation. The mere discovery of a country, even though memorials and monuments of the discovery, such, for instance, as in the case of Spain, of setting up a cross, or, in the case of England, of planting the British flag on the soil of the discovered country, will not invest the country of the discoverer with any right of eminent domain over it, without subsequent and continued occupation. The monument erected on the spot may be notice to the whole world of the discovery by that nation, and of an inchoate right, but if, after a reasonable time has elapsed, occupation does not follow, and in the meantime another party takes possession, not temporarily but permanently, the right of the party who claims by discovery, without occupation, is vacated. These are the doctrines laid down by the most authoritative writers on the

laws of nations when treating on this subject. They are universally regarded just and reasonable, and have formed the ground-work and data of all decisions in reference to the title of nations to territory, claiming under the right of discovery.

It is well known that Great Britain, from time immemorial, has, for purposes of trade and commerce, been ambitious to extend her domain in every direction that she has deemed advantageous to her interests; and she has, accordingly, wherever she has thought that she had plausible grounds for so doing, set up claims to large portions of the North American continent, particularly on its northwestern frontier, on the ground of the right resulting from discovery, and has prosecuted these claims in Parliament and through the press, and by means of diplomacy, with a pertinacity exceedingly creditable to her ambition and desire of national aggrandizement, but reflecting less credit on her sense of national justice, and on what was due to her own reputation and to the common understanding of all civilized nations, particularly of those to be affected by her politic claims and large pretensions. If she has understood the right of discovery at all, her perceptions of it have been very glimmering, imperfect, and shadowy, but she has seized on the shadow as a shield of large proportions, and as impenetrable by the weapons of assailants. In this conclusion of right, to which she has arrived by a short cut and with a want of air, she has singularly misapprehended the common sense of mankind, and the degree of intelligence of the citizens of the United States, who, like Englishmen, have a keen eye to their own interests, and who, however long their slumbers when nature requires repose, will never be found sleeping on their rights. It is a little singular that, with the facts and knowledge before her, and staring her broadly in the face, she should not have seen, or seeing should not have acknowledged, the prior claims of Spain and Portugal to all those countries to which she set up a title of eminent domain on the ground of discovery, and that in one instance, and that one of no slight moment, she should totally have ignored or singularly misrepresented the prior right of our own country, resulting from the discovery and navigation of the river Columbia by one of our own citizens. There has ever been an incomprehensible and, we fear we must add, discreditable disposition manifested on the part of Great Britain, as far as contested claims for territory in this country are concerned, to warp established principles to the side of her own interests, to resist, if possible, the force of acknowledged facts, to set

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up and maintain fictitious and unfounded claims, as if they were real and imposing by their respectability, and when these claims have been placed in issue by her vain complaints and clamorous demands, to substitute sophistry and bravado for positive and unanswerable demonstrations.

It is well known to those who are acquainted with our earlier annals, that the first successful explorations of Christopher Columbus, prosecuted under the patronage and by the aid of Spain, imparted a powerful impulse to the spirit of discovery among that ambitious and imaginative people, which numerous enterprises of a similar kind, crowned with happy results, gradually fostered until it became not only a national trait, but a dominant passion. The bold and calculating adventurer found it difficult, doubtless, at first, to obtain a hearing for his astounding proposition, and still more difficult, when this point was attained, to secure the co-operation and aid necessary for the prosecution of what was regarded by most persons as a wild and fanciful project. But when the ingenious dreamer fulfilled, to the very letter, his brilliant and incredible prophecies, and carried back to Spain the startling intelligence of his actual discovery of a new world, of immense resources and incalculable beauty and sublimity, the living picture he drew went home to the popular heart with irresistible force, awakening a spirit of adventure that rose to enthusiasm, and which, after the astonishment produced by the first announcement began to subside, led to a succession of explorations of the most remarkable character, which covered the history of Spain with undying renown, and secured for her, in solid discoveries, a richer and more extensive domain (in addition to her other possessions) than was at that time possessed by any other civilized nation. While other governments were asleep to the great vocation of the age—the prosecution of discoveries in the no longer fabulous region of the New World—she was fully alive to this novel source of interest and national grandeur; the first to rouse up her invincible energies for the execution of the inspiring task, animated by the prospect, in the distance, of the precious mines whose exhaustless treasures she intended to disembowel from the bosom of the earth to increase her wealth, and of the golden harvests of all kinds, in that fertile soil, which she expected to reap by her industry. Yes! Spain has had her great and glorious age. It was the age that succeeded the discovery of America by Columbus, and, for some hundreds of years afterwards, animated by the same courageous and intrepid spirit that glowed in his bosom, she

followed in his wake, adding, by her enterprize and indomitable perseverance, territory to territory, and claiming all under a title more glorious than that of any conquest or of any treaty. America should never forget the obligations she is under to Spain. To her we are indebted, this moment, for a country in some respects the most favored by Providence of any on which the sun ever shone. To her we are indebted for our family gods and our fireside altars; and although she has past her prime in the history of nations, and has probably not kept pace with most of the improvements of modern civilization, and may be said to be actually in a state of decadence, compared with the green old age of some of her sister nations, she still retains much of her ancient grandeur; exhibits, now and then, lively manifestations of the pristine fire that warmed and illuminated her path and shed a blaze of light all around her; and whatever else may happen—if anything ever shall occur—to restore her to the front rank which, in certain respects, she once occupied among the nations of the earth, she will never outlive her primeval renown, but will enjoy it to the end, as a glorious inheritance for herself and her children. If we shall ever, unfortunately, have to contend with her—a necessity which may possibly arise at some future day in the course of events—let us not forget her merits, nor our own great obligations to her. For one characteristic we may extend to her a hearty meed of praise and a flattering recognition, in this matter of discovery, which we may justly withhold from other countries. When she had the means and the opportunity, she was no laggard and no trifler in the progress of discovery, but went into it seriously, earnestly, and with a definite aim before her, and that aim was occupation and use of the territories she explored, whereby she acquired the best of all titles to their valid and indisputable possession. Will any one at this day deny, in respect to our northwestern frontier, that that country, prior to any other nation, not only discovered but took possession of the whole coast, and exercised over it every right of sovereignty that sovereign States do and of right ought to exercise over the countries they conquer, discover, or come into possession of by force of treaty, purchase, or otherwise? The fact cannot, in truth, be controverted. These explorers set up crosses, performed masses, (for they were Catholics,) and declared in the name of their sovereign, under whose authority they acted, and to whom they owed their allegiance, that they formally took possession of the country; and they were not like many discoverers of a

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more boastful character, who afterwards only came and saw, but they actually conquered the soil by entering into the continued occupation of it, building up settlements, peopling them with inhabitants, and resisting the pretentious titles of all subsequent claimants, as aggressors on their legitimately acquired domain. All honor to Ferrelo, who, as early as 1543, at the head of an expedition fitted out by the authority of the Spanish government, explored the coast as far as the forty-third degree of latitude. Let us put a mark at his name—a name memorable as that of Cervantes, though for a very different cause—by which he will be known through all future time. All honor to Juan de Fuca, who, in 1592, discovered the straits which now bear his name, and whose unquestionable right to this distinction should not be denied by the British government or her ministers, since it is attested in the fullest manner by the very high authority of the *London Quarterly Review*, in an article published in 1816 in that work, the leading political organ of the Tory and High Church party of England. We may put a mark also of distinguished consideration to the name of Juan de Fuca, although the straits he discovered may serve equally well to perpetuate his memory. Next in the list of worthy Spanish explorers of whom we are bound to make favorable mention, and which we do partly by way of argument, is that of Viscaino, who, in the expeditions he undertook in 1603, explored the northwestern coast only up to the point reached by his predecessor Ferrelo, and who, it is said, then returned to Madrid for the purpose of obtaining authority from his government to do what, so far as appears, Ferrelo had not done to render the Spanish title perfect as against all subsequent claimants, viz: to establish settlements and garrisons upon the territory. Having obtained this authority, he returned; but, unfortunately, before the realization of his expectations of a permanent home in the new world, he died in 1608. A long period of intestine troubles succeeded in Spain these earlier efforts to extend her sovereignty in North America; but after the peace of 1763, she returned with renewed energy to the enterprise of consolidating her possessions already discovered, which from 1603 to 1774 had not been called in question by any other power, and of making further explorations. For this purpose, we are informed, a distinct department, called the marine department of San Blas, was established in Mexico, which was “especially charged with discovering, exploring, and taking possession of the territory on the northwest coast,” evincing her settled determina-

tion to maintain her rights in and over the whole country. Under this new regime, in 1774, Perez undertook a voyage, exploring the coast, until he at length reached Nootka bay as high as latitude fifty-four degrees. Heceta, another explorer, made land the next year at fifty degrees of latitude, and on his return is said to have discovered, though he did not enter, the Columbia river. Quadra reached fifty degrees, and on his return explored between forty-five degrees and forty-two degrees. The last name upon the list of these distinguished Spanish explorers, is that of Martinez, who in 1787, a few years after the conclusion of the war of the American revolution, under the authority of his government, headed an expedition with a view to ascertain the character of certain Russian settlements then in the process of being made near Prince Williams sound, at about latitude sixty degrees, and which Spain, upon the representations of Martinez that they were within the ascertained limits of her discoveries, represented as an encroachment, and made the subject of a remonstrance to the Empress of Russia, who acknowledged its justice; but Martinez, notwithstanding her distinct disavowal of any design to encroach upon any part of Spanish America, learning that two Russian ships had been fitted out and were on their way to Nootka, prosecuted his voyage thither, took actual possession by establishing a settlement and erecting a fortification, and seized and condemned the vessels of Mearez, a *soldisant* Englishman, who had reached the sound, sailing in Portuguese ships under Portuguese colors, an act regarded by the British government as one of a rather high-handed character, and which subsequently led to the celebrated Nootka convention, to which, as it was influential in settling British claims, we may have occasion hereafter more particularly to advert.

It would seem that Great Britain, ever animated by a lively regard to her own interests, but who was certainly anticipated in these western explorations by the kingdom of Spain, did, with the progress of the discussions instituted with a view to the settlement of her claims, gradually abandon any title resting on the ground of first discovery, to which abandonment she was reluctantly compelled to submit by the accumulation of proofs incontestably establishing the contrary fact; and afterwards, with a sagacity that did more credit to her inventive spirit than to her knowledge of the principles of international law governing such questions, or to her honesty in the recognition of them, was disposed to rest her claims to certain attractive and highly convenient and useful regions,

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whole country. On a voyage, she did not, when she had found them out, either through her own enterprise, or that of others who had preceded her and opened the path for her approach, conquering the dangers, removing the difficulties, and ultimately rushing on the prize, gaze on these desirable spots in the New World—eminently desirable for the extension of her trade, navigation, and commerce—with a casual and indifferent glance, as if there was “no speculation in her eyes” and no hope, but looked at them on all sides for a long time with an earnest, searching, and curious scrutiny, examining and considering intently, nay profoundly, all the possible advantages likely to result from their acquisition, coming at length to the conclusion, that they were worth something, nay, worth much, for the promotion of her ulterior designs, and that she would claim them all, and acquire possession of them all, if she could in fee simple, and, if not, then as perfect a possession as she could acquire in right of a *more perfect discovery*. But why, she asked, is not a subsequent discovery, if it is more perfect than the first, better than the first, and of at least equal force in investing the country of the discoverer with the indefeasible and unquestionable right of eminent domain over any spot in a far off country that has been curiously and industriously examined? The query was propounded, and the statesmen of Great Britain—a country that, through all past time, has been distinguished less for the genius of invention than improvement—had the honor on this occasion of starting a new idea so ingenious and unexpected that it amounted to a problem. But fortunately for the world, less fortunately for the pride of originality, which sometimes beats wildly in breasts soaring after impracticable novelties, the problem was one of easy solution, and was readily solved by opening any accredited book, the first that came to hand, on the law of nations, where the doctrine was clearly laid down that prior discovery, if followed up by occupation, and the exercise of unquestionable acts of ownership, gives the party that has made the discovery the right of possession, and the right to maintain it in perpetuity against all adverse claimants. The right, then, resting on the ground of a *more perfect discovery*, though the statesmen and diplomats of the mother country may undoubtedly lay claim to all the credit of originality properly belonging to the announcement of so unusual a proposition, is chimerical and fanciful, and rests on no authoritative grounds.

Still, it may be interesting, as we are now embarked in a discovery discussion rendered important by recent circumstances, to whom inquire whether Great Britain could justly set up this claim, up its v on any grounds—in other words, whether she was fairly entitled to the merit of *the more perfect discovery* which she bears. claimed? An inquisition into the real facts of the case will law, and show that in this instance she was a mere pretender, and States, that the discoveries she made on our northwestern coast, and river. of which she boasts, were not only not more perfect than those of other enterprising explorers, but were far less so. Let us authori turn to the history of the explorations she made for the purpose to who of discovery, or for any other purpose, promotive of her Gray, aims and interests. These explorations stand in the following charts order: Sir Francis Drake commenced them by visiting the Pacific his res in 1578. After a lapse of two centuries, in 1778, Captain addition Cook, the great circumnavigator, in the course of his voyage for the touched at Cape Flattery, near the Straits of Fuca, and an men in chored in Nootka. The very same year, Meares, claiming that C to be an Englishman—a fact rendered questionable by his as he p name—but sailing under Portuguese colors, as we have before of Van stated, sent a boat into the Straits of Fuca, but did not enter claims, them. Vancouver visited the coast in 1792, and Mackenzie The pr discovered the headwaters of Frazer's river in 1793. So As to much for British explorations on the northwestern coast of been c North America. But, were the discoveries resulting from Frazer these voyages more perfect than those of preceding naviga the au tors who had touched at the same points? That is the ques that he tion. It appears that, of these explorers, Vancouver and the riv Captain Cook were the only ones who acted under the au may no thority of the British government. All the rest were adven mouth turers. Drake was a mere buccaneer; Mackenzie, an Indian been d trader; and Meares, a land speculator and dealer in furs. a perf They did not represent their government; and their discove subseq ries, if they made any, were purely accidental. Most of the Any places they pretended to find had been discovered by the ground once p Spaniards long before they reached the coast. Meares, the entirel Portuguese smuggler and captain, "cruised along the north- and u west passage where the Columbia enters the ocean by a mouth discov seven miles wide," but, strange to say, he did not see the Ferrel river, and ridiculed the idea that the Spaniards had discovered and r any river there. In a spirit of vaunting and imagined triumph, second he called the bay "Deception," and one of the capes at the made mouth of the river, "Disappointment." There is no evidence, of nat then, in the case of Meares, that he made a more perfect dis-

embarked in discovery than his predecessors Heceta and Gray, the latter of whom not only discovered the mouths of the river, but sailed up its waters twenty miles, calling it Columbia, after the name of the trading ship in which he sailed—a name which it still bears. This was something like a valid discovery, valid in law, and entitling the nation of the discoverer, the United States, to the whole extended tract of country drained by the river.

It will be admitted that Vancouver, acting under British authority, made a tolerably accurate survey of the coast, but to whom was he indebted for that accuracy? To Perez and Gray, who had preceded him in the exploration, and whose charts of the coast were placed in his hands to guide him in his researches. It is not pretended that he acquired any additional information or made any new territorial disclosures for the benefit of mankind in general or of his own countrymen in particular. Indeed, like Meares, he ridiculed the idea that Captain Gray had made any such discovery of a river as he pretended to have done. How can it be affirmed, then, of Vancouver that he gave any additional force to British claims, in consequence of *more perfect discovery* of the coast? The pretension is idle.

As to Mackenzie, "the straggling Indian trader," as he has been called, and who accidentally struck the headwaters of Frazer's river, it is not pretended that he was acting under the authority of the British government, or, if he had been, that he made the discovery of any new region; for although the river which he traced for a distance of two hundred miles, may never have been seen before, the whole country, from its mouth to the point of coast where he reached the Pacific, had been discovered and explored long before his day, and with a perfection and accuracy that precluded the claims of any subsequent discoverer.

Any claim which the British government might set up on the ground of the discoveries made by Sir Francis Drake, though once preferred as entitled to consideration, has of late been entirely abandoned, or, if not abandoned, has been disproved and utterly discountenanced on two grounds: first, that the discoveries of Drake were anticipated at least thirty years by Ferrelo, acting under the authority of the Spanish government, and rendered null and void by actual pre-occupation; and, secondly, on the ground that at the very time that Drake, made the pretended discoveries, he was, contrary to the laws of nations, engaged in prosecuting a predatory warfare on the

northwestern coast of America against Spain—a country which England was then at peace—and that he was afterwards in consequence, compelled by Queen Elizabeth to restore to Spain a part of his ill-gotten booty. It is a little curious, but furnishes an illustration of the reckless and incautious manner in which statements are sometimes made, that Lord Clarendon should have antedated the time when Drake made this voyage by twenty-one years, and then should have set up a claim for Great Britain on the ground of prior discovery. But even this calculation, which we sincerely hope was a typographical blunder, would place the Spanish discovery of the advance of that of the British marauder by a period of ninety years. Nothing, after this, can be alleged in behalf of Drake's movements as constituting evidence of a *more perfect discovery* or of any discovery whatever, which the British government would probably care to offer to the United States, or to the world at large, in support of her pre-eminent claims.

Nor can the explorations of Captain Cook, the enterprising and fearless navigator, whose name has come down to us with honor, be properly employed in support of this special plea of a more perfect discovery. What did he discover on the northwestern coast? Certainly not the Straits of Juan de Fuca, for when, in 1778, in the latitude of $48^{\circ} 15'$, he was inspecting the coast, and the southern cape at the entrance of that strait was in full view, being only a few miles distant, this close and scrutinizing observer, who does not on the occasion seem to have been invested with his full powers of vision, astounds us by saying: "It is in this very latitude where we now were, that geographers have placed the pretended (?) Straits of Juan de Fuca. But we saw nothing like it; nor is there the least probability that any such thing ever existed!" But Lord Clarendon says that in 1792 Cook actually took possession of the country adjacent to the Columbia river, when, in fact, his voyage was made in 1778, "fourteen years before the Columbia river was entered, or even certainly known to exist." But the noble lord, it would seem, is not very particular as to dates, or even to facts, whose importance, in an inquiry of this kind, depends upon dates.

It would seem, then, that Great Britain neither by the right of prior discovery, nor by that of a more perfect discovery, was entitled to any of those regions on the northwestern coast of America, which she for a long time claimed on those special grounds. Indeed her claim of right to a single

a country without of that territory is, by the law of nations, extremely questionable, and has long been so regarded, and what she has afterwards restored to her, it is believed she possesses rather by a little curious sufferance and concession, under treaty, than by right.

The claims of the United States to the territory in question rest on the following grounds: 1st. The discovery of the Columbia river, in 1788, by Gray, who, in that year, made a trading voyage to the Pacific under sea-letters from Congress. Prior discovery, and who, on his return to the United States in 1792, sailed up the river a distance of twenty miles, giving it the name of the vessel in which he sailed. 2d. The transfer to this government, by France, in 1803, of Louisiana, with undefined westerly boundaries, as she received it from Spain, and the relinquishment of her title by the latter under the treaty of 1819, by which she ceded the Floridas to the United States. 3d. The occupation of the territory from the time of its transfer by citizens of the United States. As soon as practicable, after the Louisiana purchase, viz: in the year 1805, Mr. Jefferson, under the authority of Congress, sent a company of fifty men, under Captains Lewis and Clarke, to explore and take possession of the territory, which they did in the autumn of the same year, remaining there during the winter, tracing the river, and erecting a fort, and, then, crossing the mountains, returned to the United States. In 1808 the Missouri Fur Company erected trading establishments upon the Lewis river, and in 1810 Mr. Astor, at the head of the Pacific Fur Company, built Astoria, near the mouth of the Columbia, taken by the British in the war of 1812, but restored under the treaty of Ghent in 1818. Spain, insisting that Oregon was not included in the transfer to France of Louisiana, which we had purchased of the latter government, assigned to the United States any interest she might have above the forty-second parallel of latitude, our government having fixed the dividing line on the north, with Russia, at 54° 40'.

We come next to consider the claims which Great Britain sets up under treaties; the rights founded on prior discovery, and on more perfect discovery, having been ascertained to be fanciful and untenable. Let us, as we are looking into the history of her pretensions, refer back, first, to the Nootka Convention, of which her statesmen, with a view to fortifying their claims, seem to have spoken somewhat more confidently than the facts would warrant. A convention between nations is a serious thing, and implies that there are matters in dispute between them of an important character, but which sometimes,

save for the consequence attached to conventions, would, ~~zer~~ been the judgment of thinking men, be regarded "trifles light ~~ace~~. air." So long, then, as Great Britain had a convention ~~ssion~~ which to point, she thought she stood on solid ground, ~~uch~~ less twisted and turned the Nootka convention inside out, ~~atitled~~ back again, until she made of it a very respectable garment, ~~ritish~~ s to be worn by a king or queen, and investing them, for ~~f~~ trade time being, with the panoply of sovereignty. Great has ~~lothed~~ come, and justly so, in states and kingdoms the reputation ~~esides~~, of conventions and treaties, but the short lived importan ~~lone~~ of which Great Britain derived from the Nootka convention, ~~nce~~ of the slight confirmation given by it to her exorbitant claim ~~rom~~ eve will be apparent from the simple statement of a few fac ~~round~~. The convention of Nootka, sometimes called the treaty of ~~took~~ place Escorial, was entered into in 1790. It invested Great Brita ~~796~~, pu with no territorial rights, but only with such as were pur ~~ulations~~ conventional and temporary. The first article of it, cou ~~dition~~ th in grandiloquent terms, provides that "the buildings ~~ar~~ ~~rue~~ she tracts of land, situated on the northwest coast of America ~~conventi~~ or on the islands adjacent to that continent, of which ~~in~~ mind subjects of his British Majesty were dispossessed about ~~t~~ ~~una~~, ear month of April, 1789, by a Spanish officer, should be restor ~~he~~ in h to the said British subjects." The Spanish officer, allud ~~vention~~ to in this passage, we presume to have been Martinez ~~right~~ who had taken possession of Nootka under the authority ~~party~~. the Spanish government; but the British subjects despoil ~~eat~~ I of their property on the northwest coast, strange to sa ~~Britis~~ dwindle down from an entire population to a single ind ~~privileg~~ vidual, one Meares, who, if he were an Englishman, singular ~~the~~ pun belied his country, inasmuch as he reached Nootka, as ~~addition~~ have repeatedly said, in a Portuguese ship, sailing und ~~the~~ fish Portuguese colors; and the buildings, of which Martinez di ~~We~~ c possessed British subjects, and which, from the emphas ~~States~~ i with which they are referred to in the treaty, might ~~story~~ pl supposed to constitute the residences of a respectable co ~~during~~ munity, are reduced from many to one, and that a miserab ~~the~~ tre hut, erected by the permission of the officer in command, ~~shall~~ be the accommodation of Meares, and which, as it was erected ~~establis~~ land not belonging to him, he promised to give up, as he di ~~restore~~ on his leaving the coast. As to the tracts of land of whic ~~citizens~~ British subjects were dispossessed, they also, unfortunat ~~rights~~ for the consequential terms of this treaty, vanish into air ~~that~~ ac Martinez could not, in this respect, execute the treaty, becaus ~~then~~ a its execution was a physical impossibility. No occupation ha ~~restora~~

ions, would never been proved; no dispossession, therefore, could have taken trifles light. *Ex nihilo nihil fit.* The whole coast was in the possession of the Spanish government, and no British subject, much less the British government itself, in its own right, was entitled to a foot of it. The treaty of the Escorial gave to British settlers on the coast, who went there for the purpose of trade, certain privileges of temporary settlement, but Great Britain clothed their government with no right of eminent domain. Besides, Great Britain did not avail herself of these privileges. None of her subjects made settlements on the coast in pursuance of the treaty, and consequently the argument resulting from even a temporary possession, slight as it is, falls to the ground. In addition to this, the declaration of hostilities that took place between the two countries, Spain and England, in 1796, put an end, under the law of nations, to all treaty stipulations between them, and England was left in the same condition that she occupied before the treaty was made. It is true she insisted that the treaty was revived in 1814 by a convention reviving all treaty stipulations, but it will be borne in mind that in 1800 Spain transferred her right in Louisiana, carrying with it all the northwest coast, to France, and she in her turn, in 1803, transferred it to us, so that the convention between England and Spain in 1814, could not revive a right that had wholly passed beyond the control of either party. So much for the Nootka convention, under which Great Britain gained no rights but such as were guaranteed to British subjects as such, and which consisted merely of the privilege of erecting temporary habitations on the coast for the purpose of carrying on trade with the natives, with an additional provision that those engaged in the prosecution of the fisheries should not be molested.

We come now to the treaty of Ghent, ratified by the United States in the year 1815, and which stipulated that "all territory, places, and possessions whatsoever, taken by either party during the war, or which may be taken after the signing of the treaty, excepting only the islands hereinafter mentioned, shall be restored without delay." Under this stipulation, the establishment at Astoria, taken during the war, was, in 1818, restored fully and without any protest or reservation, not to citizens, but to the government of the United States, whose rights of sovereignty in and over the whole country was, by that act, recognized and acknowledged. The British Minister, then at Washington, it is true, made some objection to the restoration, notwithstanding which it was made in the most

absolute terms. Captain Biddle consequently received instructions from this government to proceed to the mouth of the Columbia and "assert the claim of the United States to that sovereignty of the adjacent country in a friendly and peaceful manner, and without the employment of force," which order he executed on the 9th of August, 1818, by taking possession of the country on the river, the formal restoration taking place on the 14th of October following. Though endeavoring to set up some title previous to this restoration, it is evident that Great Britain had but little confidence in the validity of her claim, and Lord Castlereagh, Principal Secretary of the Foreign Office, declared that we were "entitled to be fully restored, and to be deemed the party in possession while the question of the title," and previously, when the joint occupancy question was up for consideration, the British Minister, employed in London, playfully remarked to our Minister, Mr. Rush, "we need not hesitate and wrangle about the matter, for ultimately we would get the whole of it"—i. e., the whole of the northwest territory; and, as an evidence of the views entertained by our own government, Mr. Clay, in an official paper, declared that "she," Great Britain, "had not the color of a title to any portion of the territory." In 1827, when Secretary of State under Mr. Adams' administration, he instructed our Minister at the Court of St. James to inform the British government that the extension of the forty-ninth parallel to the Pacific was our ultimatum.

We come next to the convention of October 20, 1818, entered into between the United States and Great Britain, fourteen days after the restoration was made, and which stipulated that "any country that may be claimed by either party on the northwest coast of America westward of the Rocky mountains shall, together with its harbors, bays, and creeks, and the navigation of all rivers within the same, be free and open for the term of ten years from the date of the signature of this convention, to the vessels, citizens and subjects of the two powers."

By the provisions of a convention entered into between the same parties on the 6th of August, 1827, the main provisions of the foregoing convention were renewed and extended for an indefinite period, coupled, however, with the proviso that it was "competent for either of the contracting parties, upon giving due notice of twelve months to the other contracting party, to annul and abrogate this convention."

Such is a brief history of the claims which, since the origin of this very troublesome controversy, Great Britain has attempted

ceived instrument set up under the color of her treaties, first with Spain, and afterwards with the United States, but from which it appears that she was not entitled, under any treaty whatsoever, to lay claim to or exercise any acts of sovereignty over any portion of the soil on the northwest coast of North America.

During the first session of the 29th Congress, a resolution was offered in the United States Senate to give Great Britain notice of twelve months, by virtue of which the treaty between her and the United States of August 6, 1827, stipulating that the Territory of Oregon shall be free and open to the people of both countries, is to be abrogated and annulled. This notice, at that time, became necessary, not only because this government wished to occupy that territory with her citizens, but in consequence of the arrogant language employed and the lofty pretensions set up by Great Britain. Only a year previous to the ratification of the treaty of 1827, Messrs. Huskisson and Addington, in their correspondence with Mr. Gallatin, thus state their claim:

"Great Britain," they said, "claimed no exclusive sovereignty over any portion of that territory. Her present claim, not in any respect to any part but to the whole, is limited to a right of joint occupancy in common with other States, leaving her the right of exclusive dominion in *abeyance*." Yes! Great Britain, without the shadow of a title to a foot of the territory, claimed the whole of it, not then on the ground of a prior or more perfect discovery, but—*credat Judæus Appella!*—by virtue of the Nootka convention with Spain, a treaty actually annulled by her war with that power, and also by the virtue of the treaty of 1818 with the United States, and which gave her only a joint occupancy in the Territory for the term of ten years! Mr. Packenham, the British Minister, was somewhat more moderate in his demands, but not less provoking. He would be content, he said, "with an equitable partition of the whole between the two powers!" That is to say, for

of the United States, his government would be content with a seizure of one-half—for that must be presumed to be the meaning of his "*equitable partition*." Had he not been satisfied that the rights of the United States to the whole were beyond dispute, he would doubtless not have made a concession of so much as a half, but would have demanded for his government the lion's share. We believe the lion is her national emblem, and is somewhat significant of her propensities—of an appetite that grows by what it feeds on, and which finds it no difficult

task to convert the right of a joint occupancy, by a sudden leap, into a right of eminent domain. Had it not been for the generosity of the United States, signified by her soaring eagle, she would never have consented to this joint occupancy as one of the conditions of peace with a country of such like propensities and of so exorbitant an appetite, but would have held on to her territorial rights with a firm and undying grasp.

Perhaps no question that has ever been debated in the American Senate, from the origin of the government, awakened a deeper feeling on the part of the citizens of the United States at large, or elicited higher talents or a more searching analysis from the distinguished members of that body—a body, at least, equal in the higher attributes of statesmanship, in genius and in solid knowledge (if not superior) to the famed Senates of Rome and Great Britain—than the Oregon question, a question in respect to the true territorial boundaries of the United States on its northwestern frontier. The question was one of the right of the American citizen to American soil—to a part of his country, and if there is anything that strikes home to the heart of the American, and rouses up all his energies, (especially if right and honor are assailed) quickens and kindles his indignation to the highest degree, it is a question of that kind, involving, as it does, a title to the broad earth and bounding rivers of his “own, his native land”—not simply to a State though it may be the State of his birth or adoption, but to the whole country. On the other hand, came up the claims of Great Britain, not founded in justice, not in accordance with the laws of nature or of nations, but pressed with a sturdy and unyielding obstinacy peculiar to her national genius, a genius of a comprehensive and grasping kind, a commercial genius spreading a greedy eye over whole oceans and continents with a desire of appropriation, and who, after all her conquests was never ready to cry, “enough!” saw no *ultima thule*, but marching ever onward with a proud but dissatisfied air, assumed for her mottoes, “Get all you can, and keep all you can obtain!” “Right is a strong argument, but assume a virtue! By the you have it not.” “The shadow of a right is something. Pursue it as if you were in earnest, as if your life depended on the pursuit, and, by and by, the world, supposing that your zeal has a real and tangible object, will admit that you have grasped the substance.” Such is now, and such ever has been the character of British policy. The progress of civilization has not changed nor ameliorated it—and such, we fear, it will

by a sudden, haughty, pretentious, exacting, and exorbitant to the point of time. We have no intention to review the debates on the Oregon question that took place in the American Senate, and we refer to them simply to remind our readers that all the facts connected with that inquiry have been well canvassed, and are before the world; and that if there is any one matter with which our intelligent citizens are more conversant than any other, it is that of this boundary line that separates our dominions on the northwestern frontier from those of her Majesty the Queen of Great Britain. The treaty of 1846 is before us, negotiated, on one side, by one of the purest, ablest, and most determined statesmen of this or of any age, the present venerable chief executive magistrate of the United States—*clarum venerabile nomen*; and, on the other, by the Right Honorable Richard Packenham, a member of her Majesty's Most Honorable Privy Council, and her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States, (we like to give the whole title,) a diplomatist, of the most admirable caution and sagacity, or he would not have been so eminently distinguished by his thoughtfulness and prudent government. Whatever may be said in derogation of the stipulations of this brief but important and memorable treaty, one thing may certainly be said in its praise: that it exhibits the highest possible evidence of the generosity of the American people, and of the lively sense entertained of that generosity by the experienced statesman who represented the United States on that occasion. By our previous conventions with Spain, France, and Russia, we were entitled to the northwestern territory up to the parallel of fifty-four degrees and forty minutes. If we consented to divide the territory at the forty-ninth parallel, the remainder of our claim may be regarded in the light of a concession, on our part, to the mother country, in consideration of common ancestry and ancient recollections, and made for the sake of perpetuating peace and good-will between two nations who had many motives for cementing and maintaining friendly relations with each other.

By the first article of our treaty with Great Britain of June 15, 1846, it is stipulated, that "from the point of the forty-ninth parallel of north latitude, where the boundary laid down in existing treaties and conventions between the United States and Great Britain terminates, the line of boundary between the territories of the United States and those of her Britannic Majesty shall be continued westward along the said forty-ninth parallel of latitude to the middle of the channel which separates

the continent from Vancouver's island, and thence southe through the middle of said channel and of Fuca's straits to Pacific ocean: *Provided*, however, that the navigation of whole of the said channel and straits, south of the forty-nin parallel of north latitude, remains free and open to both partic

It would seem, from the stipulations of a treaty so distinct expressed, that no possible difficulty could arise in respect what was included within the boundary line and what outside of it, when it is said to be the middle of the channel separating the Island of Vancouver from the continent, for the slightest inspection of a correct map of the country would be sufficient to satisfy any one that the channel intended to be specified in the treaty is the channel of Haro, the main channel connecting with the Straits of Fuca, which is obviously the grand highway for the navigation of both nations on their way to the Pacific, and this being admitted to be the case, it would as obviously throw the Island of San Juan on the American and the Island of Vancouver on the British, side of the channel. But the question of our title to San Juan island having been drawn into dispute by recent circumstances which are notorious to the whole country, and which have threatened temporarily, at least, to disturb the friendly relations of the two countries, it may be proper to consider the relation which the island in dispute bears to the continent or main land, as well as to dwell briefly on the causes which have disturbed the equanimity of our ancient cousins, and which have at length led to a loud war of words in the leading political journals on both sides of the Atlantic.

The Island of San Juan, containing forty thousand acres is one of a group of sixteen, constituting an archipelago in the waters of Puget Sound—the Mediterranean sea of the northwestern territory of the Union. This island separated from Vancouver's island by the main channel the Straits of Haro, and belongs to that class of islands which are usually called continental, to distinguish them from what are denominated oceanic islands. An inspection of the map would convince any one acquainted with the science of physical geography that this whole group of islands anciently belonged to the continent, and formed an integral portion of the main land, from which they have been dissevered during the lapse of ages by the eruptions of the ocean. Suffice it to say that, under the treaty of 1846, it has been claimed as the property of the United States, and, in the survey of the coast and its appendages, has been embraced within the limits

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Washington Territory, by the express authority of one of the departments of the American government, and formally taken possession of and fortified by the general in command of the military division in that region. An impression seems to have been current in the United States that, notwithstanding the very express terms of the treaty, this island was territory still in dispute between the two countries. But this issue has not been raised by our government, which has never entertained any doubts as to its right to it, has always treated it as its own, and exercised acts of ownership over it, as forming an integral and indisputable part of the American territory. Besides, it would seem there could be no reasonable doubt that it belonged to us by the express terms of the treaty. The doubt was started and the difficulty raised by her Britannic Majesty's representative at Vancouver, Governor Douglass. Some aggressions on the rights and property of American citizens had occurred at San Juan, and General Harney hurried to the spot with a military force, as in duty bound, in order to give the protection required by the emergency. There was a possibility of getting into the Straits of Fuca by a different channel from the Straits of Haro, and which, if adopted as the channel of the treaty, would throw the Island of San Juan from the American to the British side of the boundary line. Which channel was intended by the high contracting powers? Governor Douglass supposed there might be a doubt about that matter, and, consequently, a doubt as to whether, under the treaty, San Juan belonged to England or the United States. Consequently he intimated, it is said, that he should forcibly prevent the landing of any further troops on San Juan, which had very much the aspect of a threatened collision with the military of the two powers, and which might lead to a general war between the countries. This, if possible, was to be avoided. Wisely, therefore, General Scott, in consequence of his great military experience and sagacity, was called into consultation, and despatched to the scene of the troubles, under instructions from our Government which have not transpired, but which probably invested him with the functions of a pacificator, if not of a diplomatist, with a view to the settlement of the whole difficulty.

The question, it would seem, if viewed in a dispassionate light, and with a distinct reference to the terms of the treaty, and the laws of nations governing such cases, cannot be one of very difficult solution. Far more importance has been attached to it than it deserves, but the slightest causes, where

parties are jealous of each other, often lead to serious distinctions. It is necessary, therefore, that the matter should be managed with a wise caution, but, at the same time, with a firm determination not to surrender to the British government one iota of our rights. For the sake of peace and good fellowship, we have conceded too much to her already. There is a point where intemperate exactions, accompanied with threats and a spirit of bravado, must be met with uncompromising and sturdy resistance, and this is doubtless one of those points which in the progress of our history we have now reached. We are satisfied that Great Britain does not wish to go to war with us at this time about this matter or any other. She has troubles of a weightier nature nearer home which occupy the minds of her leading statesmen and distract their thoughts. Neither do we court a war with her, nor expect one; but if she is not satisfied with the amount of territory she has received at our hands, but demands a portion of our inheritance at the point of the sword, the United States will be ready to meet her. Its free and brave people, with arms in their hands and standing upon their rights, will be prepared to defend them. We have done this before, and can do so again, and as often as necessary. But we see no danger of hostilities arising from this cause, at the present time, with our mother country. Pacific counsels will prevail over hasty passions, and we shall soon see an end of the matter. This will certainly be the case if it shall be discovered, as it will be, that upon the negotiation of the treaty in question, in order to avoid dismembering Vancouver by detaching a strip of some thirty-five miles from the southern part of the island, it was agreed we should take the waters of the sound as the boundary. This fact, if it shall appear, will show that it was the intention of the contracting parties to leave that island to Great Britain, and allow the United States to retain all the appendages, in islands, of the main land; so that, in fact as well as law, the title of Great Britain does not extend an inch beyond a marine league from Vancouver. This, coupled with the ascertained fact that the main channel separates San Juan from Vancouver, places the former clearly within the limits of the American Union.

It will be remembered that by different past public acts the rights of the United States to this island, and the grounds constituting an archipelago in these waters, have been asserted. That scientific and eminently useful institution, the United States Coast Survey under the direct management of its di-

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serious distinguishing chief, has traced out the exterior lines of these matter should islands, ascertained, by exact soundings, the depths in the me time, with tracks of the surrounding waters, and ushered to the world, British government four years ago, a most valuable and interesting map, showing and good fellow that the Rosario Straits nearest to the main land which Great ydy. There is Britain claims as the dividing line, are shallow, entirely secured with three, secondary—in fact shoal water, whilst on the other hand, in the compromising a Straits of Haro, those farthest to the west and near Vancouver, of those points is found the deep-sea-channel, the natural and real boundary re now reach of the territory of the two nations.

ish to go to w On this San Juan Island, east of those straits are one hundred American settlers. It has been organized as a political some which in precinct of Washington Territory, exercising the right of suffrage, and its influence felt in the election of territorial officers, her, nor expected even including the Delegate to the Congress of the United States. It is now fortified by an exterior line of defence, a portion of a constructed on military principles, and is held by a detachment of five hundred United States troops, with a heavy field battery, with arms, by flying artillery and infantry. It is the principle of our people, when once the right to an inch of our territory on the extremest frontier is determined by the proper authorities, to defend and maintain that right by all the power and means the nation can command. Let that judgment be once authoritatively expressed in affirming our title, and the world will then see that we are in earnest, let the consequences be what they may.

JAMES BUCHANAN.

We propose to present in this first number of the Democratic Review, as an accompaniment to the portrait which graces it, a short outline of the career of JAMES BUCHANAN, President of the United States. Our limits forbid us at present from giving more than a very brief and meagre sketch of the life of this distinguished statesman; but, brief as it is, it will show a course of public service, continued through many years, in times often of difficulty and of peril, and connected with the greatest questions which have arisen under the administration of our complex form of government. The annals of our history furnish but few examples of a political career so successful, united with a private life so pure and blameless. It is rather our purpose in this article, concisely and rapidly,

to enumerate the public services of Mr. Buchanan, than to discuss their merit or vindicate their usefulness. The fit performance of the latter task will fall into other hands after I shall have been gathered to his fathers, and death shall have opened to him the portals of immortality. The passions of the hour, and prejudices more unreasoning than passions, may prevent now, and for years to come, the approval by a portion of his countrymen of those measures of his Administration—the appropriate peroration of his long life—which are now being enacted into history.

James Buchanan was born in Franklin county, Pennsylvania, on the 23d day of April, 1791, during the first Administration of Washington, and but two years after the Constitution of the United States had been put into operation. His father had emigrated from Ireland about eight years before, and his mother was a native of the State in which he himself was born. He was educated at Dickinson College, Carlisle, then and now a highly respectable institution of learning, at which he was graduated in 1809, at the age of 18. He chose the profession of the law, and entered immediately with ardor and zeal upon its study in the office of James Hopkins, at Lancaster. He was admitted to the bar in 1812, at the age of 21. It was not long before his great talents, his thorough preparation, his exemplary habits and fidelity to business, attracted attention. From that time his progress was rapid and sure, and but a few years elapsed before he had won a position in the very front rank of his profession. It was at this period, or even earlier that he formed those accurate, methodical, and orderly habits which have clung to him through life, and have made him so remarkable an exemplar of industry and punctuality. Mr. Buchanan continued to practice law for about 20 years, and long before he retired he had reaped the substantial reward of an ample fortune fairly won by honest labor.

In 1814, at the very outset of his career at the bar, he volunteered as a private soldier in a company raised and commanded by Judge Shippen, of Lancaster, which proceeded once to Baltimore to aid in the defence of that city, then threatened by the British forces under General Ross. The services of the company not being needed, it was disbanded in Baltimore, and Mr. Buchanan returned to his home. Soon after he was elected to represent Lancaster county in the State Legislature, and commenced here that long civic career which has been scarcely interrupted from that day to this. He served two terms in the Legislature, and from the very begin-

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